IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO : 11273 of 2004

Between:

1 Smt. G.V.N. Bharatha Laxmi, W/o. Rama Krishna
Fast Track Court, Nalgonda, Nalgonda District.
2 M. Achutha Reddy S/o. Sai Reddy
Fast Track Court, Ranga Reddy District.
3 J. Venkata Ramana III Addl. District & Sessions Judge,
Fast Track Court, Nizamabad, Nizamabad District.
4 P. Murali Mohan Reddy, S/o. Yerram Reddy
Fast Track Court, Machilipatnam, Krishna District.
5 Smt. B. Sunitha D/o. Sadasiva Reddy
Fast Track Court, Anantapur, Ananthapur District.
6 B.Srinivasa Rao S/o Late. Appanna
III Addl. District & Sessions Judge. Fast Track Court.

Bhimavaram, West Godavari District
7 Smt. B.Swapna W/o T.Ravi Kumar
V Addl. District &Sessions Judge Fast Track Court,

Mahaboobnagar
Mahaboobnagar District
8 Smt.A.Bharathi W/o K.Nanda Kishore
IV Addl. District &Sessions Judge Fast Track Court,

Mahaboobnagar
Mahaboobnagar District
9 Smt. T.Padma W/o K.Poornachandra Rao

II Addl. District &Sessions Judge Fast Track Court,

Medak
Medak District
10 Y.V.S.B.G.Pardha Saradhi
IX Addl. District &Sessions Judge Fast Track Court,

Visakhapatnam
Visakhapatnam District.

11 Ch.Ramesh Babu S/o Ch.Nageswara Rao
IV Addl. District &Sessions Judge Fast Track Court,

Nizamabad
Nizamabad District
12 T.Srinivasa Rao S/o Jallelu
IV Addl. District &Sessions Judge Fast Track Court,

Tanuku, West Godavari District
13 S.S.S.Jaya Raju S/o S.Jaya Raju
III Addl. District &Sessions Judge Fast Track Court,

Medak
Medak District
14 K.Ranga Rao S/o Purnachandra Rao
IV Addl. District &Sessions Judge Fast Track Court,

Warangal
Warangal District
15 Smt. M.Bhuvaneswari
VIII Addl. District &Sessions Judge Fast Track Court,

Guntur
Guntur District
16 N.Soloman Raju S/o N.Yesupadam
VI Addl. District &Sessions Judge Fast Track Court,

Ongole.
Prakasham District
17 S.Goverdhan Reddy S/o Narsimha Reddy
III Addl. District &Sessions Judge Fast Track Court,

Karimnagar,
Karimnagar District

..... PETITIONERS

AND

1 The State of Andhra Pradesh Law (LA & JSCF) Department
rep. by its Chief Secretary, Secretariat, Hyderabad
2 High Court of Andhra Pradesh,

rep. by its Registrar General,

High Court Buildings,
Hyderabad
3 The Union of India Ministry of Law, New Delhi
rep. by its Secretary

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus: a) declaring the action of the Respondent No.1 in issuing the advertisement dt. 28/05/2004 as arbitrary, illegal, violative of Articles 14, 21 and 300-A of the Constitution of India and consequently set aside the same; b) direct the respondent authorities to absorb the petitioner as regular District and Sessions Judges. Grade-II in the A.P. State Judicial Higher Services.

Counsel for the Petitioner : MR.A.SUDERSHAN REDDY

Counsel for the Respondents: G.P. for Law & Legislative Affairs for R-1

Smt. M.Bhaskara Lakshmi,

Standing counsel for A.P.High Court for R-2

Mr. A.Rajasekhara Reddy,

Standing counsel for Central Govt. for R-3

The Court made the following :

ORDER: (Per Hon'ble the Chief Justice)

Petitioners are working as Additional District and Sessions Judges in various Fast Track Courts in the State and have felt aggrieved by the notification issued by the first respondent on 28-05-2004 and they approached this Court by a writ petition to declare the action of the first respondent in issuing the said notification dated 28-05-2004 as arbitrary, illegal and violative of Articles 14, 21 and 300-A of the Constitution of India. Consequential direction prayed for in the writ petition is to absorb the petitioners as regular District and Sessions Judges, Grade-II in the A.P. State Higher Judicial Services.

Petitioners did not dispute that they were recruited as Additional District Judges in the Fast Track Courts under the A.P. State Higher Judicial Service Special Rules for Ad hoc Appointments, 2001 (in short 'the Rules'). The Rules came into force with effect from 01-03-2001 and were framed in exercise of powers conferred by Article 233 and proviso to Article 309 of the Constitution of India and all other powers vested in the Government. One of the modes for appointment of ad hoc Additional District Judges is by direct recruitment from the members of the Bar. Sub-rule (4) of Rule-2 says that all appointments made from time to time under the Rules shall cease on 31-03-2005 and Rule-9 says that notwithstanding anything contained in any other law for the time being in force, all appointments made on ad hoc basis on or after 01-03-2001 shall be deemed to have been made as appointments under the Rules.

Rules also make it clear that persons appointed under the Rules shall not be regarded as members of permanent cadre covered under Rule 2 of the A.P. State Higher Judicial Service, 1958 and shall not be entitled to any preferential right to any other appointment to this service or any other service and this service shall not be treated as regular or permanent under the State Government. The petitioners were specifically appointed as Presiding Officers of the Fast Track Courts on ad hoc basis under the Rules, pursuant to the notification issued and they accepted such appointments. Rules under which they were appointed are not under challenge

before us. The petitioners' sole plank in seeking the relief in the writ petition is one of the guidelines laid down by the Supreme Court in
BRIJ MOHAN LAL Vs. UNION OF INDIA . The Scheme which had been prepared by Government of India for making appointments as Presiding Officers of the Fast Track Courts known as 'Fast Track Courts Scheme' was the subject matter before the Supreme Court. While considering the constitutional validity of the said Scheme and considering the laudable objective with which the Fast Track Courts Scheme was framed, directions were issued by the Supreme Court of the manner of appointing Presiding officers of the Fast Track Courts. Guideline No.4 no doubt says that preference shall be given to members of the Bar for direct appointment to Fast Track Courts so that they could aspire to continue against the regular posts if the Fast Track Courts would cease to function. The question of their continuance in service will be reviewed periodically by the High Courts based on their performance. They may be absorbed in regular vacancies, if subsequent recruitment takes place and their performance in the Fast Track Courts is found satisfactory and for the initial selection, the High Court shall adopt such methods of selection as are normally followed for selection of members from the Bar.

Be it stated that the Rules framed by the A.P. State Government were not under consideration before the Supreme Court. It is also not held by the Supreme Court that any Rules framed contrary to the guidelines stand superseded by the directions issued.

There is no doubt that the procedure required to be followed in making selection of the Presiding Officer of the Fast Track Court under the Rules under direct quota is almost akin to the procedure required to be followed for selection to the regular posts of A.P. State Higher Judicial Service. This factor alone cannot confer any right on the petitioners to claim regularisation. Neither under the said guideline aforementioned, the petitioners can claim any preferential right for being absorbed as regular members of A.P. Higher Judicial Service. There is an express provision in the Rules that the appointments made under the Rules are on ad hoc basis upto 31-03-2005 and person appointed shall not claim any preference. The appointment of the petitioners having been made under Special Rules even if the procedure

followed was the same, it is a matter of common knowledge that for such type of ad hoc appointments, persons duly qualified and aspiring to join the regular service did not apply for being considered in the special drive for recruitment as Presiding Officers of the Fast Track Courts.

Maybe, while working as Presiding Officers of the Fast Track Courts, the petitioners might by passage of time gain enough experience, but the experience so gained will be helpful to them in case they would compete with others pursuant to the notification which has now been issued for appointments to the regular service. That is the benefit and advantage gained by the petitioners in having joined as Presiding Officers of the Fast Track Courts. They however cannot claim any preferential right to be absorbed as regular members of the A.P. Higher Judicial Service and there being no challenge to the Special Rules of 2001, we find no force in the writ petition.

Writ petition is therefore dismissed.

DEVINDER GUPTA, C.J.

G.ROHINI, J

13-07-2004

bsc

To

1 The Chief Secretary, Law (LA & JSCF) Department,
Govt. of A.P., Secretariat, Hyderabad
2 The Registrar General,

High Court of Andhra Pradesh,

High Court Buildings,
Hyderabad.
3 The Secretary,

Ministry of Law,

Union of India,

New Delhi
4 2 CCs to Govt. Pleader for Law and Legislative Affairs, High

Court Building, Hyderabad.

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